

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

September 6, 2002

GSBCA 15807-RELO

In the Matter of ROBERT K. OJA

Robert K. Oja, Eugene, OR, Claimant.

M. Susan Fink, Assistant District Counsel, Corps of Engineers, Department of the Army, Elmendorf Air Force Base, AK, appearing for Department of the Army.

BORWICK, Board Judge.

Claimant seeks reconsideration of our decision in Robert K. Oja, GSBCA 15807-RELO (June 10, 2002). In that case we denied the claim for real estate transaction expenses incurred by claimant upon his separation from federal service because statute and regulation provided no entitlement to reimbursement of those expenses incurred by separated employees. The agency's erroneous travel authorization granting claimant real estate transaction expenses could not enlarge claimant's entitlements fixed by statute and regulation. Oja. Later, the agency amended the authorization to delete the entitlement to reimbursement of real estate transaction expenses.

Claimant seeks reconsideration on the ground that his claim did not ask the Board to enlarge claimant's entitlement, rather "it emphasized that the [Joint Travel Regulations (JTR)] prohibit an agency from retroactively nullifying authorized reimbursable entitlements."

In our original decision we explained that entitlement to real estate transaction expenses is limited by statute and regulation to employees who transfer in the interest of the Government and that, because a separation is not considered a transfer in the interest of the Government, separating employees are not entitled to reimbursement of those expenses. Oja.

Claimant's request for reconsideration is based on the mistaken premise that the agency's erroneous travel authorization granted claimant an entitlement that the agency illegally revoked. We explained in our original decision that erroneous travel authorization cannot obligate the Government to spend money in violation of statute or regulation. Oja, slip op. at 3; see John C. Permaul, GSBCA 15828-RELO, 02-2 BCA ¶ 31,896; Charles M. Ferguson, GSBCA 14568-RELO, 99-1 BCA ¶ 30,299. Since claimant did not have a legal entitlement to reimbursement of real estate transaction expenses, the agency could not authorize payment of those expenses. Consequently, the agency's refusal to pay those

expenses was in accord with statute and regulation.

Claimant also sees an inconsistency between our conclusion that the establishment of the debt for the shipment of claimant's household goods (HHG) in excess of eighteen thousand pounds was in accordance with statute and regulation and our refusal to consider the claimant's challenge to the agency's process by which it collected the debt. There is no inconsistency. Our conclusion was based on our consideration of those provisions of the Federal Travel Regulation and the JTR which make the cost of shipping more than eighteen thousand pounds of HHG an employee's financial responsibility. Oja. The process by which the agency collected the debt is another matter entirely and is not within our delegated authority. Id.

Claimant's motion for reconsideration is denied.

ANTHONY S. BORWICK
Board Judge